

REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

In the Office Action dated March 8, 2007, the Examiner rejected claims 1-8 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement; rejected claims 1-5, 7 and 8, under 35 U.S.C. §103(a), as allegedly being unpatentable over Marino (U.S. Patent No. 6,132,684) in view of Emmitt (U.S. Patent No. 4,124,122); and rejected claim 6, under 35 U.S.C. §103(a), as allegedly being unpatentable over Marino in view of Emmitt, and further in view of De Graaff (U.S. Patent No. 6,146,594).

By this Amendment, claims 1, and 3-5 has been amended to provide a clearer presentation of the claimed subject matter. Claims 15-19 have been newly added. The amendment to claim 1 also overcomes the rejection under 35 U.S.C. §112, first paragraph, as the “manipulating mechanism” feature has been deleted from claim 1. Support for the amendments can be found in paragraphs 14, and 18-21. Hence, Applicant submits that no new matter has been added. Accordingly, Applicant requests the Examiner to withdraw the rejection under 35 U.S.C. 112, first paragraph, as well as the new matter objection.

With respect to the restriction requirements arguments, while the Applicant disagrees with the Examiner, solely in an effort to expedite prosecution of this application, Applicant will withdraw claims 10-14 from further consideration.

Applicant respectfully traverses the prior art rejections, under 35 U.S.C. §103(a), for the reasons presented below.

I. Prior Art Rejections.

As indicated above, independent claim 1 sets forth a device for manipulating and dispensing multiple filaments that *collect a small portion of a sample via contact with the sample*. Consistent with this, claim 1 positively recites, *inter alia*, that said device is configured to manipulate the secured multiple filaments to: *establish contact by the secured multiple filaments with samples of an analytical application by drawing samples* into the secured multiple filaments or *adhering the samples* to the secured multiple filaments; *position the secured multiple filaments in or out of analytical instruments or fluid supplies*;

and dispense the secured multiple filaments into a secondary holder or apparatus. These features are amply supported by the disclosed embodiments. (See, Specification: par [0012], [0014], [0019], and [0020])

Applicant respectfully submits that the Marino and Emmitt citations relied upon by the Examiner do very little in the way of rendering Applicant's pending claims unpatentable.

In particular, Marino merely discloses a test tube holder that is capable of holding a plurality of test tubes and that can be moved onto a heating block. There is no recitation of suggestion, whatsoever, of manipulating and dispensing multiple filaments that collect a small portion of a sample via contact with the sample. Firstly, the test tubes of Marino, are *incapable of collecting* a small portion of a sample via *contact* with the sample, because test tubes are neither open ended on both sides, like capillary tube-type filaments, nor are they designed to have samples adhere to them, like optical fiber-type filaments.

That is, test tubes can only be used to store/hold previously-collected samples, but *not to collect a portion of a sample via contact with the sample*. Since, the bottom portion of the test tube is closed, even when the test tube is brought in contact with a sample, it is incapable of drawing/collecting the sample into the test tube. And, a test tube simply cannot be relied upon to have samples adhere to the bottom. In dramatic contrast, a filament is designed to either draw the sample through capillary action or have the sample adhere to it. Hence, Marino, fails to teach or suggest the manipulating and dispensing of *multiple filaments that collect a small portion of a sample via contact with the sample*, as required by Applicant's claim 1.

Moreover, Marino also fails to disclose the manipulation of multiple filaments to establish contact with samples of an analytical application by drawing/adhering samples to the filaments or to position the multiple filaments in or out of analytical instruments or fluid supplies. Marino, merely discloses the use of a test tube holder that holds a number of test tubes. There is no discussion in Marino whatsoever, of the manipulation of test tubes to permit contact with samples of an analytical application to draw the samples or enable the samples to adhere. The test tubes in Marino are merely moved to a heating block – and there is *absolutely no mention* of positioning of test tubes into or out of analytical instruments or fluid supplies, such that samples can either be collected or dispensed. Hence, Applicant submits that Marino fails to teach or suggest, the device being configured to manipulate the

secured multiple filaments to: *establish contact by the secured multiple filaments with samples of an analytical application* by *drawing samples* into the secured multiple filaments or *adhering the samples* to the secured multiple filaments; *position the secured multiple filaments in or out of analytical instruments or fluid supplies*, as required by Applicant's claim 1.

Applicant submits that none of the remaining references, whether taken alone or in combination, are capable of curing the deficiencies noted above regarding Marino. For example, Emmitt is directed only to the use O-rings as part of a device for handling test tubes, and fails to remedy the deficiencies of Marino. Therefore, the combined teachings of Marino and Emmitt fail to teach or suggest the claimed combination of elements recited by Applicant's amended claim 1.

Furthermore, De Graaff fails to remedy the deficiencies of the combined teachings of Marino and Emmitt because De Graaff merely teaches standardized well plate arrangements. Thus, the combined teachings of Marino, Emmitt and De Graaff fail to teach or suggest the claimed combination of elements recited by Applicant's amended claim 1.

Accordingly, Applicant submits that claim 1 is clearly patentable. And, because claims 2-8 and 15-19 depend from claim 1, claims 2-8 and 15-19 are patentable at least by virtue of dependency as well as for their additional recitations. Accordingly, immediate withdrawal of the prior art rejections of claims 1-8, and 15-19 is respectfully requested.

II. Conclusion.

All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number **033975**. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

**PILLSBURY WINTHROP SHAW
PITTMAN LLP**


E. R. Hernandez
Reg. No. **47641**
Tel. No. 703.770.7788
Fax No. 703.770.7901

Date: July 6, 2007
P.O. Box 10500
McLean, VA 22102
(703) 770-7900